

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7185

BILL NUMBER: SB 522

NOTE PREPARED: Jan 9, 2011

BILL AMENDED:

SUBJECT: Prohibition on Abortion after 20 Weeks.

FIRST AUTHOR: Sen. Walker

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill sets public policy findings concerning when a fetus can feel pain. The bill sets requirements for performing an abortion after the first trimester but before the earlier of viability of the fetus or 20 weeks of postfertilization age of the fetus (current law requirements are based on viability of the fetus). The bill requires that a physician determine the postfertilization age of a fetus before performing an abortion, and allows for the discipline of a physician who fails to do this in certain circumstances.

This bill creates a cause of action for a pregnant woman or the biological father of the fetus for actual and punitive damages if a physician recklessly, knowingly, or intentionally performs or attempts to perform an abortion in violation of the law. It also provides for injunctive relief for specified individuals against a physician to prevent the physician from performing further abortions that violate the law.

Not later than June 30, of each year, the bill requires the Indiana State Department of Health (ISDH) to, compile a report providing specified statistics for the previous calendar year. The ISDH is further required to update compiled reports for previous calendar years if information was submitted to the state after the annual compilation of the statistics.

The bill creates the special litigation defense fund to provide reimbursement of the costs and expenses incurred by the Attorney General in defending the constitutionality of this act, and continuously appropriates the fund. It also provides for severability of provisions if a court determines that any of the law is unconstitutional, and specifies prior law returns to effect if the amended law is found by the court to be unconstitutional.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Special Litigation Defense Fund:* The bill establishes the nonreverting Special Litigation Defense Fund for the purpose of providing the Attorney General funding to defend the actions of the General Assembly with regard to the bill. The fund is administered by the Treasurer of State. Money in the fund may consist of appropriations, donations, gifts, or grants. Interest accruing from any investments of the fund is to be deposited in the fund. Money in the fund is continually appropriated; however, the bill does not appropriate any money to the fund.

ISDH Reporting Requirements: The bill requires the ISDH to compile termination of pregnancy statistics for the previous calendar year not later than June 30. Currently, the ISDH compiles and publishes such a report. However, the Epidemiology Resource Center has left the data files open in excess of a full year before starting the data compilation. The data file for the CY 2007 report was closed August 6, 2009, and the report was published January 2010. [See *Information Sources*, below.] The additional resources that may be needed by ISDH to meet the required publication deadline and to revise and update prior-year reports is not known at this time.

Explanation of State Revenues: *Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Attorney General; ISDH; Treasurer of State.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: “Indiana Induced Termination of Pregnancy Report, State and County Data”, January 2009, Indiana State Department of Health, Epidemiology Resource Center , at <http://www.in.gov/isdh/reports/itp/2007/index.htm> .

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